

**COLLECTIVE BARGAINING:  
THE ISSUE OR THE PRINCIPLE.**

EXECUTIVE DEVELOPMENT

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### **ABSTRACT**

Labor management negotiation for a collective bargaining agreement can be a difficult and stressful process. The problem that initiated this research was that the negotiation process was not focused on the real principle but instead on positions.

The purpose of this research was to review bargaining approaches and make Recommendations regarding interest based bargaining and management team composition for labor and management negotiations.

The descriptive research method was utilized to answer the following questions:

1. What is the process of collective bargaining?
2. Who is affected by the collective bargaining agreement?
3. Do fire officers need to be involved directly at the bargaining table?
4. How is the focus on interests verses positions important within the bargaining process?

The procedures used to compile this research consisted of a search and review of periodicals, training manuals, and a survey of National Fire Academy students.

The results of this research defined collective bargaining, the traits and behaviors of both management and labor, and the importance of focusing on open communication lines. It is necessary for the parties negotiating to avoid positions. They're main focus should be on interests important to both sides, contrary to the "traditional" bargaining process. Additionally, survey results indicated significant differences around the country on the approach to the actual collective bargaining process.

Recommendations made as a result of this research include; developing strong but open communication links between labor working in the field and officers representing management, the importance of education for our personnel involved in the collective bargaining process on effective

approaches to issues and common labor law, and how to develop a dedicated team with common interests and a desire to efficiently negotiate a win-win agreement. The intent of the recommendations was to strengthen our labor relation's process and therefore improve the working conditions for both officers in management ranks and the labor line personnel.

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## INTRODUCTION

The labor management relationship is vitally important to the mission of our nations fire service. In 1988, approximately sixty-five percent of all full-time career firefighters were represented by a union and held limited if not all collective bargaining rights according to Carter and Rausch in their book *Management in the Fire Service*. The problem is that the collective bargaining process is often depicted by our large unions in its traditional sense as a display of power often culminating with a last best offer or bottom line. This approach is often based on positions and not on the real principle of the topic at hand. The purpose of this research is to evaluate approaches to bargaining and make recommendations of the best composition of the management teams and their focus on true issues of concern to both parties.

The descriptive research method was used for this paper in order to determine and report the present status of this in the fire service. The following research questions were used:

1. What is the process of collective bargaining?
2. Who is affected by the collective bargaining agreement?
3. Do fire officers need to be involved directly at the bargaining table?
4. How is the focus on interests verses positions important within the bargaining process?

## BACKGROUND AND SIGNIFICANCE

A participant in the National Fire Academy Executive Fire Officer Program is required to complete a research project following each class completed in the series. It is preferable that the subject matter of the project be related to the fire service course completed. This research project is important to the fire

service for the following reasons; Collective bargaining is a common place element of any labor force in America today, therefore establishing open communication through educated, honest and focused negotiating teams is needed to overcome the win-lose philosophy (Henson, 1995). It is a fact that labor is going to seek a reward for the completion of tasks and the fire service is no different than the private sector workforce in this area. As management in the fire service struggles to do more with less in the budget arena it is necessary to be fiscally responsible and to protect against excessive wages and benefits being paid for fire service contract agreements. It is important that the fire service work well in the area of collectively addressing the labor needs and desires as the diversity of scope changes and the responders responsibility broadens. Finally, bargaining power is dependent on the financial condition of the municipality or local government so the strategy must take that into consideration.

This project relates to the *Executive Development* course through the module on labor relations and how interest based collective bargaining negotiations relates to higher level fire service management. This research may help other fire departments in the area of strategic planning for contract negotiations and the approach taken to issues at the collective bargaining table.

## **LITERATURE REVIEW**

The purpose of this literature review is to assist the researcher in answering the questions that are posed by this paper. After an extensive research at the National Fire Academy's Learning Resource Center and my locally available literary resources, the author found material, both pro and con, related to the interest based collective bargaining approach. The located written material, combined with a personal interview with a Chief of a local department who had extensive background in contract negotiations, completed the material found for this literature review.

### **What is Collective Bargaining?**

#### *Definitions:*

According to Webster's dictionary, collective bargaining is defined, "a negotiation between organized workers and their employer or employers for reaching an agreement on wages, fringe benefits, hours, and working conditions."

The term contract is “a binding agreement between two persons or parties”, according to Webster.

Webster’s defines Union as, “the formation of a single political unit from two or more separate and independent units.”

Collective bargaining in the public sector differs in some way from the private sector and the meaning applied in that setting. The writing of the following contained in *Public Management* stated, “Public sector collective bargaining has been described as a political process in which unions can gain an unfair advantage over other groups competing for the government’s limited resources and therefore a balance is necessary” (Grattet, 1995).

#### **Who is affected by collective bargaining agreements?**

##### ***Labor Relations Laws:***

In the writings of *Management in the Fire Service* by Carter and Rausch they influenced this research by stating that both sides in labor relations must be committed to a course of cooperative action and every member has an important role in that endeavor. The following four laws are the basis for all labor negotiations in the United States today.

##### **The Norris-La Guardia Act of 1932**

This act states, “an employee cannot be forced into a contract by the employer”, in order to obtain or keep a job. Before the time of this act, many employers required workers to sign a “pledge” that they would not join a union as long as they were employed by the company. Unions called those who signed this type of pledge “yellow dogs”, and the contracts were so named.

The Norris-La Guardia Act did two things: 1) it said that “yellow dog” contracts were not enforceable in any court in the United States, and 2) it made conditions for getting an injunction to prevent strikes almost impossible.

In Carter and Rausch's writings they note, In 1932, that Union's only leverage for recognition was by striking, picketing or boycotting without interference from the courts of the time.

In an attempt to bolster the failing economy President Roosevelt, in 1933, formed the National Industrial Recovery Act. Section 7a of this act "guaranteed" unions the right to collectively bargain in order to keep wages up and maintain purchase power of the workers. This "shot in the arm" caused union members to join the American Federation of Labor (AFL) and the New Congress of Industrial Organization (CIO) of which the International Association of Firefighters (IAFF) was formed from within.

### **The Wagner-Connery Act**

In 1935, the Supreme Court struck down the National Industrial Recovery Act as unconstitutional. The Wagner-Connery Act was introduced by Senator Wagner (NY) and was passed by Congress. Carter and Rausch noted the following provisions:

- Allowed workers to decide by majority vote who was to represent them at the bargaining table.
- Established the National Labor Relations Board (NLRB)
- Defined labor practices that are unfair and gave the NLRB the power to hold hearings, investigate such practices, and issue decisions and orders concerning them.
- Prohibit management from interfering or coercing an employee when they tried to organize.
- Required management to bargain with a union although management was under no obligation to agree to any of the union's terms.
- Outlawed "yellow dog" contracts entirely (the Norris-La Guardia Act had only made them unenforceable.)

In the writings of *Management in the Fire Service* by Carter and Rausch they point out the Act, in effect, was an attempt to "equalize the positions of both management and labor." Following the days of the Great Depression and World War II, the power of unions had grown to such an extent that they were now



significantly stronger, thanks to government protections. Congress attempted to restore the balance by passing the Taft-Hartley Act of 1947 over the veto of President Truman.

### **The Taft-Hartley Act**

The Taft Hartley Act modified the Wagner-Connery Act by outlining penalties, fines, and the imprisonment for violations. The Act focused on the five following areas:

1. Union Representation:
  - A. The provision of "Closed Shop" was outlawed.
  - B. It gave workers the right to refrain from joining a union.
  - C. Only one election per year could be held to determine which union could represent a group of employees.
  - D. It gave employees the right to express any views, opinions, or arguments without threat of union reprisal.
2. Unfair Labor Practices for Unions:
  - A. Protected employees from coercion by a union.
  - B. Protected employees from having to pay exorbitant dues and initiation fees.
  - C. If an employee chose not to join they were protected from reprisal.
  - D. Required the union to "bargain in good faith", similar to employers requirement.
3. Bargaining Procedures:
  - A. Provides for a sixty-day cooling off period when a labor agreement ends.
  - B. Required a sixty-day written notice from either party to terminate an agreement.
  - C. Thirty days from the time of a dispute the Federal Mediation and Conciliation Service must be notified.
4. Regulation of Union's Internal Affairs:
  - A. Union rules regarding membership, dues, initiation fees, and elections are made available to government and union membership.
5. Strikes During a National Emergency:
  - A. The President has the power to intervene in the event an imminent strike imperils the health and safety of the Nation.

### **The Landrum-Griffin Act**

In 1955, the American Federation of Labor and the New Congress of Industrial Organizations merged into one organization. Two years after the merger, hearings by Senator John McClellan (Arkansas), revealed union corruption. The result, according to Carter and Rausch, was that Congress passed the Landrum-Griffin Act of 1959:

- Establish members Bill of Rights creating a more democratic union process.
- Required an annual report filed by the union with the government listing assets of the union members and its officers.
- Established minimum requirements for elections, responsibilities, and duties of union officers and officials.
- Amended portions of the Taft-Hartley Act concerning secondary boycotts, union security, and the rights of some workers to strike.
- Imposed restrictions on rights of unions to picket for recognition.

According to the writings in Chief Officer by the International Fire Service Training Association (IFSTA), it points out that initially neither the National Labor Relations Act or its amendments covered government employees at any level. It was felt that public employees were not involved in commerce and competition and therefore had no need for unions. In 1962, President John F. Kennedy signed executive order 10988 setting up the rules under which federal employees could “bargain collectively” and soon after, President Nixon set up the Federal Labor Relations Council, an equivalent to the civilians, National Labor Relations Board according to IFSTA (1993).

### **Do Fire Officers need to be involved at the bargaining table?**

In the writings of IFSTA Chief Officer (1993), it is noted, “The collective bargaining process is basically one of communication.” Misunderstandings will occur because people, attitudes, and feelings will be added to the discussion at the table. In the search of the literature there is little information to be obtained on the composition of management bargaining unit teams. In general a negotiation process with private sector will usually involve a manager or owner and the labor individual or team. It is likely that, in public sector bargaining, the city or municipality will

elect to hire an attorney of labor law to be present at the negotiation table. It was noted by an author of leadership in a case study in labor/management, City of Miami, that as the committees were assembled to choose places on their labor/management team, the fire chief and all three deputy chiefs were chosen, but they elected to have an outside official sit as lead negotiator at the table (Pidermann, 1995). This is consistent with other management team composition. In another writing it was noted that fire service managers expertise is often not in labor relations and due to the complexity of negotiating the labor law, it may be beneficial to utilize a human resource professional at the bargaining table (Hunter, 1997). It will benefit the management team to have a chief officer as an advisor on specific fire department related issues.

**Interests verses positions and the trends within the bargaining process:**

Interests based bargaining is a “brand new, innovative, and exciting method of negotiation”, according to the writings of Labor Law Journal (Lobel, 1994). Lobel adds, Parties seem to be stating that the interest-based win-win approach is a refreshing change from “traditional” bargaining. The negotiating parties emphasize how they focus on interests, not positions, on problems, not people, and how they created options for mutual gain using “objective” criteria. In discussing principled interest based bargaining the writers Roger Fisher and William Ury (1981) in their book *Getting to Yes: Negotiating Agreement Without Giving In*, stated the following four main elements:

First: Separate the people from the problem. This requires understanding perceptions, recognizing the emotions, and preparing to deal with them in open effective communication.

Second: Focus on interests not positions. This is similar to the previous author cited. Focusing on interests according to Fisher and Ury requires an understanding of the difference between substantive interests and relationship interests. Resolving substantive issues is important while maintaining each other's relationship interests.

Third: Invent options for mutual gain. This undertaking can be challenging until the parties get past the presumption of a “fixed pie size” or the preconception that there are no other solutions out there somewhere. Fourth: Insist on using objective criteria to evaluate alternative solutions

that can lead the parties to mutually satisfying solutions. The writing of Fisher and Ury influenced this research in a pivotal way with their insight into interest based collective bargaining.

The writings by Chief Randy R. Bruegman in *Fire Chief*, March 1995, explained a bargaining process he was exposed to using a group composed of fire chiefs, labor organization president, fire department support staff, and other elected union officials representing communities of 20,000 to 100,000 people in Southern Minnesota. There had been a standing labor/management committee whose relationship was adversarial in nature and after a one day retreat they were able to meet on common ground and resolve differences, improve relationships, and come together as a team with a common goal. If both sides do not have a willingness to sit down and openly communicate about issues not positions, this won't work (Bruegman, 1995).

Bingham (1994) wrote about the fire service not doing what it was founded to do. He stated, "Management and unions should work toward providing friendlier relationships and concentrate on developing common goals that represent the needs most consistent with delivering the best possible service in the most efficient manner." (Bingham, 1994, p.126).

### *Interviews*

In a personal interview in July 1999, Frank Di Luzio, Fire Chief of the Santa Fe Fire Department, was asked why he felt some of the union members were so stuck on their positions as it relates to the collective bargaining process. Chief Di Luzio replied, "If they would just get off the particular position stance and step back and take a larger view of the issue they would see that the new ordinance going into effect would likely not dramatically change the day to day operation of the department." The short sighted approach of the here and now and "us verses them" attitude had caused the minor issue of change to become a morale issue affecting worker satisfaction and productivity with the new recruits all the way across the spectrum to the senior firefighter.

## PROCEDURES

The literature review used to prepare this research paper began at the Learning Resource Center at the National Fire Academy, Emmitsburg, Maryland in March 1999. Also, the author's personal library and the Santa Fe Fire Department training academy library was searched and reviewed from April through June 1999.

Articles relating to the subject, taken from periodicals, were reviewed for their relevancy and verified to be current within the last decade.

The interview was conducted with Fire Chief Frank Di Luzio, in July 1999.

The next step in the research process was to conduct a survey among students who are enrolled in the National Fire Academy Executive Fire Officer Program. A current E-mail listing of the attendees of the Executive Development course in early March 1999, was utilized to geographically cover a large part of the country and a diverse population base sampling. The basic survey instrument (Appendix A) was developed by the author to include questions relating to department type, population, bargaining agreement membership details, and questions relating to the collective bargaining process. The survey tool was tested on a local level to ensure appropriateness of the questions.

The survey was distributed as E-mail on the Internet during the week of August 2, 1999.

The author's spouse, and colleagues, along with alumni and students of the National Fire Academy's Executive Fire Officer Program, offered advice and recommendations pertaining to this research paper.

### **Assumptions**

The author made the assumption that all respondents would answer the questionnaire honestly. It is also assumed that all had knowledge of the questionnaire material.

### **Limitations**

This research project was limited by several factors, the first being the fact that it is a rather small survey group. The class network of fellow students and alumni was limited and therefore the total number of surveys sent out was limited. Secondly, due to time constraints and other obligations, the time to complete the survey was also limited.

## **RESULTS**

### **1. What is the process of collective bargaining?**

The negotiation between organized workers and their employer or employers for reaching an agreement on wages, fringe benefits, hours, and working conditions.

### **2. Who is affected by the collective bargaining agreement?**

The collective bargaining agreement affects, and is a cooperative agreement between, both labor and management. There are three parties to the agreement; management, an agent (the union), and the employees who are represented by the union. To achieve the purposes of both labor and management, both sides must be committed to a course of cooperative action. As a result of the labor relations' laws, management and labor must bargain collectively and in good faith on the subjects of wages, hours, and working conditions.

### **3. Do fire officers need to be involved directly at the bargaining table?**

The literature review found that fire officers need to have a management representative available such as a chief officer as an advisor on specific fire department related issues. Due to the complexity of labor relations it was advised that it may be beneficial to utilize a human resource professional at the bargaining table (Hunter, 1997).

### **3. Interests verses positions and the trends within the bargaining process:**

Interest based bargaining is new and differs from the “traditional” bargaining process. In interest based bargaining the negotiating parties on both sides focus on interests, not positions, on problems, not people, and work towards options for mutual gain using objective criteria. It was noted that when the bargaining process is taken off the focus of positions and put on issues it often results in a “win-win” team approach with open communication and an honest, fair, and equitable conclusion.

### **Survey Results**

Surveys were returned by E-mail reply from fifteen of the eighteen respondents. There were no patterns of fire departments included in the distribution with all regions of the nation represented. The population of departments responding to the survey ranged from less than 10,000 to over 100,000 people.

#### *Type of department represented?*

In response to the research question concerning the type of department represented, fifty-seven percent were combination departments, thirty-six percent were paid fire departments, and seven percent represented fully volunteer departments.

#### *What is the population base of your community?*

The respondents to this questing were twenty-eight percent greater than 100,000 population. Twenty-two percent were between 60,000 and 100,000 in population. Thirty-six percent were between 30,000 and 60,000. Finally fourteen percent represented departments in areas of less than 10,000 people.

#### *Does your department negotiate a collective bargaining agreement?*

In summarizing the data received it was noted that fifty percent of the respondents negotiate an agreement and fifty percent do not.

#### *What number of your total department is covered by a collective bargaining agreement?*

The responses to this question varied widely but in summary it was noted that the average percentage of labor verses management was four and one-half percent of the total workforce is management and not involved in the collective bargaining agreement.

*Does your department utilize interest-based collective bargaining?*

The departments responding to the survey seemed to be confused by the wording of the question and therefore some stated it was difficult to determine based on their system. Of those returning a reply, seven percent stated they use interest based collective bargaining. Sixty-four percent stated they utilized the "traditional" model of negotiations and thirty-five percent either did not collectively bargain or were unsure which type of negotiations were utilized to reach an agreement.

*Does a fire department management member negotiate at the table?*

Of the responses received on this question, fourteen percent did not have a fire department management member at the negotiation table. In the reply provided by the other eighty-six percent, either they did not negotiate an agreement or they did provide a deputy chief or above to sit at the negotiation table in working toward reaching an agreement.

*Does your department maintain equitable separation between union and management positions?*

Of the fourteen surveys sent out only eight actually answered this question. Out of those who responded it was noted that fifty percent felt their department is maintaining separation and the other fifty percent felt they did not have equitable separation between the higher level non-unionized positions and members who were in the collective bargaining unit.

## **DISCUSSION**

In completing the research and review of the materials available, it became clear that the issue of contract negotiations is critical and is here to stay in the modern fire department setting. The basic issues discussed initially in the literature review centered on the labor relation's laws, organization, and collective bargaining approaches and strategies used in the collective bargaining process for public employees.



The interest based approach seems to be the most agreeable to both parties in the cases where open communication and cooperation is occurring. I am in agreement with the literature that stated public sector collective bargaining has been described as a political process in which unions can gain an unfair advantage over other groups. However, it is important to be aware of costs when negotiating and know the limits of the system to remain financially prudent.

In the area of outlining who is affected by the collective bargaining agreement process it is important to note that both labor and management have an obligation and the various laws that have been enacted have gone a long way to balance the labor and management playing field. As was outlined at length by the reference to the laws according to the writings of *Management in the Fire Service* by Carter and Rausch, it was noted that in some cases laws were repealed and others enacted to counter the effort and balance the legal direction the laws were intended to address. It is noted that through this, the power put on the approach to “win-win” bargaining is really a credit to where labor management relations are today.

Politics has always played a direct role in the organized labor groups and due to sheer number often the unions have a loud voice. Historically, strong lobbying by organized labor has been effective but through education and preparation the tables have been changed in recent cases by management teams who used principle based negotiation procedures. Unions have done their homework in many cases and have gained the upper hand at the bargaining table but the scene has changed in many cases and the pendulum has been brought back to the middle.

In the area of communication and the need or desire to have fire chief officers at the negotiating table it was cited in IFSTA Chief Officer (1993), that basically the bargaining process is one of communication. Misunderstandings will occur because people are people but it seems that having a higher-level management member present can have advantages and disadvantages dependent on how open the line of communication is and stays. In some cases, it may benefit the team to hire a negotiator with expertise in the area of labor law or human resources and rely on advice only from an available member of the fire service. In those cases where a specific issue is being discussed that requires the input of a fire chief officer to say “yes we can live with this”, the management member would be consulted.

Interest based collective bargaining is an innovative approach in today's labor and management relations. As was evident from authors in *Getting to Yes: Negotiating Agreement Without Giving In* (Fisher, Ury, 1981) the four step approach allows the negotiation team to stay focused on the interests and remain objective. It seems to me that using these tips and keeping the communications lines open will allow the team to get to "yes" on the agreement and prevent the use of "dirty tricks" or anyone getting angry. In the fire service there is no reason for the chief and the union president to be at odds because they can support each other on the issues and arrive at a mutually satisfactory solution to problems both in the negotiating process and day to day functions.

In summary, notice that there was a time and place for the "traditional" bargaining process, but today with our labor management climate such as it is, we need to rethink the approach and attempt to focus on interests, not positions, and work together to create options that will satisfy both parties in the collective bargaining process.

The author contends additional research would be necessary to produce a way to fully monitor and evaluate the negotiation processes used and the training program required that best address the collective bargaining process. Also, additional research should be conducted through like surveys of other fire departments to obtain more data and further evaluate this labor management issue. This would offer a much broader range of data for evaluative purposes. This research should provide the leaders of all fire departments with a foundation from which they could evaluate what perceptions exist relating to negotiation of collective bargaining agreements.

### **RECOMMENDATIONS**

The following recommendations are intended for the Santa Fe Fire Department. However, other members of the fire service may find this useful in planning and developing bargaining approaches and negotiation team composition for their labor management negotiation process.

**1. Provide training or make available at the local, state, or national level education for those members, both management and labor, who will be negotiating at the bargaining table.**

Being able to conduct negotiation style training within the Santa Fe Fire Department would increase fire officers and team members' knowledge of their role and responsibilities relating to this process. Also, each participant would receive student materials that they could review as necessary to maintain their knowledge as they put learned ideas into practice.

Utilizing training, whether locally or outside the department, should contribute to the effectiveness of both sides of the team. This should allow individual labor management team members to feel more confident in approaching the issues brought up at the table and the outcome based on interests should be "win-win" for both sides.

**2. Provide the support and time needed to maintain dedicated team members and involve others in the decision making circle.**

The leadership of the organization must educate and support an attitude of teamwork and trust through a participatory management philosophy. It is evident that in order for interest based bargaining to be a success it requires "buy in" to work. We need to instill in our management team members and the union officials alike that it is necessary to separate the people from the problem and avoid taking positions. We need to protect and provide support for our team so that when they are subjected to the power play and those who refuse to play by the rules, they are prepared to stay focused on the interests.

**3. Recommend that the Assistant Chief of our department not remain as the chief spokesperson for management at the bargaining table with the fire union.**

There are sometimes limited options as far as who has the time and required knowledge to be the chief negotiator in contract collective bargaining. In the Santa Fe Fire Department, currently the Assistant Chief of Support Services is serving in this capacity and it is evident that it is straining the relationship between the bargaining unit members and this chief. The department in this case may be better served by asking the city manager for a change in who serves on the management team. My recommendation would be that rather than having either the chief or assistant chief at the negotiation table, we hire a labor

or human relation's expert to be the chief negotiator and retain the chief staff in an advisory status. The chief or assistant chief would be available to give input on specific issues but this would reduce the relationship strain relating to the day to day function within the department.

**Closure**

The intent of these recommendations is to better the process that is being used to collectively agree in the bargaining process and whenever possible develop "win-win" solutions. Poor or ineffective relations between labor and management are unproductive and inefficient. The time, energy, and money spent resolving these conflicts could be put to much more positive and productive use for the department and the community. However, if the labor management group is willing to set aside its positions, competitiveness, and egos we can focus on the joint issues and collectively agree to tackle them together. Then, and only then, a significant change can and will occur. In the end the real winner will be our citizens who need and deserve the best service we can offer with the best utilization of the tax dollar.

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## Appendix A

### 1999 - Fire Department Collective Bargaining Survey

1. Note the type of department you represent? \_\_\_\_\_.  
Paid                      Volunteer                      Combination
  2. What is the population base of your community? \_\_\_\_\_  
Less than 10,000  
10,000 to 30,000  
30,000 to 60,000  
60,000 to 100,000  
Over 100,000
  3. Does your department negotiate a collective bargaining agreement? \_\_\_\_Y\_\_or\_\_\_\_N\_\_\_\_\_.
  4. What number of your total department personnel is covered by a collective bargaining agreement?  
Labor\_\_\_\_\_Management\_\_\_\_\_
  5. Does your collective bargaining utilize an interest-based bargaining process? \_\_Y\_\_N\_\_
  6. Does a fire department management member negotiate at the table?  
\_\_Y\_\_N\_\_
  7. Do you feel your department has maintained equitable separation in wages and benefits between union and management positions? \_\_\_\_\_. If yes, please describe  
\_\_\_\_\_
- Should you need more room to answer any of the questions or provide additional comments, please use an additional page.
  - If you are interested in the results of this survey upon it completion, contact the author.

Thank you.